

PATENT

ATTORNEY DOCKET NO.: D8143-00305
[Annampedu I]REMARKS

Claims 1-23 are pending in the present application. The Examiner requires restriction between Group I, Claims 1-9 and 13-23, drawn to a phase detector circuit, classified in Class 327, Subclass 12; and Group II, Claims 10-12, drawn to data verification in a disk drive, classified in Class 360, Subclass 53.

Applicant provisionally elects Group I, Claims 1-9 and 13-23 for prosecution. This election is made with traverse. The Examiner concludes that inventions I and II are related as combination and subcombination. The Examiner then concludes that restriction is proper because (a) the combination as claimed does not require the particulars of the subcombination as claimed because a disk drive can verify data with specifics of other phase lock loop circuits; and (b) the subcombination has separate utility such as phase detection in any digital data communications device. Applicant respectfully submits that the Examiner's conclusion (a) is incorrect.

Claim 1 of Group I, presumably the subcombination claim, includes only two recited elements – (i) an error generation circuit, and (ii) a phase error adjustment circuit. Claim 10 of Group II is directed to a read channel device including the two recited elements (i) and (ii) of Claim 1 of Group I. Claim 11 of Group II is directed to a data storage system including a data storage assembly and a read channel device including the two recited elements (i) and (ii) of Claim 1 of Group I. Applicant submits that this situation is explained in Section 805.05(c), II and submits that pursuant thereto, the subcombination (elements (i) and (ii) or Claim 1) constitute the distinguishing feature of the combination (Claims 10 and 11), and, therefore, “the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility.” MPEP, Section 805.05(c), II.

Reconsideration of the restriction requirement is respectfully requested.

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The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment which may be associated with this communication to our deposit account 04-1679.

Respectfully submitted,

Dated:

April 1, 2004

Joseph A. Powers
Joseph A. Powers, Reg. No.: 47,0006

Attorney For Applicant

DUANE MORRIS LLP
4200 One Liberty Place
Philadelphia, PA 19103-7396
(215) 979-1842 (Telephone)
(215) 979-1020 (Fax)